

National Bank of Commerce of San Antonio

Member National Bancshares Corporation of Texas



NEIL DENTON
Vice President

No. 9-012.A214

January 8, 1979

Date JAN 12 1979

RECORDATION NO. 10018 Filed 1425 Fee \$50.00

JAN 12 1979 -2 35 PM ICC Washington, D. C.

INTERSTATE COMMERCE COMMISSION

Ms. Mildred Lee
Office of the Secretary of the
Interstate Commerce Commission
Washington, D.C. 20423

Re: Recordation Pursuant to
49 U.S.C.A. § 20c of
Security Agreement
Relating to Railroad Cars

RECEIVED
JAN 12 3 28 PM '79
FEE OPERATION
I.C.C.

Dear Ms. Lee:

Pursuant to 49 U.S.C.A. § 20c, and in accordance with 49 C.F.R. § 1116, enclosed for recordation are the original and two executed counterparts of the Security Agreement described below. Also enclosed is a check in the amount of \$50.00 in payment of the recordation fee. The original document is to be file-stamped and returned to:

National Bank of Commerce of San Antonio
P.O. Drawer 121
San Antonio, Texas 78291

Attention: Neil Denton

One file-stamped counterpart of the agreement is to be returned to:

Mr. C.D. Grojean
101 Morningside Drive
San Antonio, Texas 78209

The parties to the Security Agreement are as follows:

Ms. Mildred Lee

Page Two

Debtor: C.D. Grojean
101 Morningside Drive
San Antonio, Texas 78209

Secured Party/
Lender: National Bank of Commerce
of San Antonio
P.O. Drawer 121
San Antonio, Texas 78291

The Security Agreement relates to one "Open-Top Hopper" railroad car bearing identification number TRAX 201, the rights of the Debtor under the Purchase Order between the Debtor and Railtex, Inc., the rights of the Debtor under the Management Agreement between the Debtor and Railtex, Inc. and the rights of the Debtor under any leases of the above described railroad car.

Should you have any questions or need further information, please contact the undersigned by collect telephone call at (512) 225-2511.

Very truly yours,

NATIONAL BANK OF COMMERCE
OF SAN ANTONIO

By *G. M. Denton*
Vice President

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Interstate Commerce Commission

Washington, D.C. 20423

1/16/79

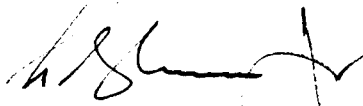
OFFICE OF THE SECRETARY

Mr. C.D. Grojean
101 Morningside Drive
San Antonio, Texas 78209

Dear Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on 1/12/79 at 2:35pm,
and assigned recordation number(s) 10018

Sincerely Yours,



H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

SECURITY AGREEMENT

JAN 12 1979 - 2 35 PM

C. D. GROJEAN

Name of "Debtor"

INTERSTATE COMMERCE COMMISSION address is

101 Morningside Drive, San Antonio, Bexar County, Texas 78209

(No. and Street)

(City)

(County)

(State)

(Zip Code)

and National Bank of Commerce of San Antonio, 430 Soledad Street, San Antonio, Bexar County, Texas, hereinafter called "Secured Party", agree as follows:

Section I. Creation of Security Interest.

Debtor hereby grants to Secured Party a security interest in the Collateral described in Section II of this Security Agreement to secure performance and payment of ~~all obligations and indebtedness of Debtor to Secured Party of whatever kind and whensoever incurred or incurred whether direct or indirect, absolute or contingent, or now or hereafter existing or hereafter becoming due~~ the indebtedness evidenced by the promissory note described in Section III of this Security Agreement.

Section II. Collateral.

The Collateral of this Security Agreement is and includes the following:

- One (1) "Open-Top Hopper" railroad car bearing identification number "TRAX 201" and all additions and accessions thereto, such railroad car being rolling stock to be used from time to time within the United States of America and being acquired with the proceeds of the loan secured hereby.
- The Purchase Order dated JANUARY 8, 1979 from Debtor, as Buyer, to RailTex, Inc. ("RailTex"), as Seller, covering the purchase of the above described railroad car.
- The Management Agreement dated JANUARY 8, 1979 between RailTex and Debtor covering the above described railroad car, it being understood and agreed that the Management Agreement shall not be amended or modified without the prior written consent of Secured Party.
- Any and all leases covering the above described railroad car subject, however, to any applicable provisions of the above described Management Agreement.

It is understood and agreed that the above described railroad car is to be managed and operated in the manner contemplated by the above described Management Agreement, and that the management and operation of such railroad car in such manner shall not constitute a violation of the terms and conditions of this Security Agreement.

The Collateral includes all proceeds of the above described items.

~~now and hereafter acquired by Debtor and all additions and accessions thereto, and proceeds thereon.~~ The inclusion of proceeds in any Financing Statement or in this Security Agreement does not authorize Debtor to sell, dispose of or otherwise use the Collateral in any manner not specifically authorized by this agreement.

Section III. Loans.

Subject to the terms of this Security Agreement, Secured Party has made a loan to Debtor the proceeds of which have been advanced to Debtor and are represented by a promissory note of even date herewith in the amount of

Sixteen Thousand and no/100 Dollars ----- \$ 16,000.00

executed by Debtor, payable to the order of Secured Party, bearing interest and being payable as therein provided.

Section IV. Payment Obligations of Debtor.

(1) Debtor shall pay to Secured Party any sum or sums due or which may become due pursuant to any promissory note or notes now or hereafter executed by Debtor to evidence Debtor's indebtedness to Secured Party, in accordance with the terms of such promissory note or notes and the terms of this Security Agreement.

(2) Debtor shall pay to Secured Party on demand all expenses and expenditures, including reasonable attorneys' fees and other legal expenses incurred or paid by Secured Party in exercising or protecting its interests, rights and remedies under this Security Agreement, plus interest thereon at the rate of ~~ten percent (10%) per annum~~ interest provided for in the promissory note secured hereby after maturity.

(3) Debtor shall pay immediately, without notice, the entire unpaid indebtedness of Debtor to Secured Party, whether created or incurred pursuant to this Security Agreement or otherwise, upon Debtor's default under Section VI of this Security Agreement.

Section V. Debtor's Representations, Warranties and Agreements.

Debtor represents, warrants and agrees that:

(1) All information supplied and statements made by Debtor in any financial, credit or accounting statement or application for credit prior to, contemporaneously with or subsequent to the execution of this Security Agreement are and shall be true, correct, complete, valid and genuine.

(2) No Financing Statement covering the Collateral or its proceeds is on file in any public office; except for the security interest granted in this Security Agreement, there is no lien, security interest or encumbrance in or on the Collateral, and Debtor is the owner of the Collateral.

(3) Debtor's residence or chief place of business is the address shown at the beginning of this agreement, and Debtor will immediately notify Secured Party in writing of any change thereof.

(4) If the Collateral is bought or used primarily for business use and is of a type normally used in more than one State (such as automotive equipment, rolling stock, airplanes, road building equipment, commercial harvesting equipment, construction machinery and the like), the chief place of business of Debtor is the address shown at the beginning of this agreement. Debtor will immediately notify Secured Party in writing of any change in Debtor's chief place of business. If certificates of title are issued or outstanding with respect to any of the Collateral, Debtor will cause the interest of Secured Party to be properly noted thereon.

(5) If the Collateral is to be wholly or partly affixed to real estate or other goods, a description of the real estate or other goods is as follows:

Not Applicable

The name of the record owner of such estate or other goods is _____

If the Collateral is wholly or partly affixed to real estate or installed in or affixed on other goods, Debtor will, on demand of Secured Party, furnish the latter with a disclaimer or disclaimers, signed by all persons having an interest in the real estate or other goods, of any interest in the Collateral which is prior to Secured Party's interest. If no description is given in this paragraph(s) then Debtor warrants that the Collateral will not be affixed to any real estate or other goods so as to become fixtures on such real estate or accessions to other goods.

(6) The Collateral will be used primarily for: (check one).

- ☐ Personal, family or household purposes.
- ☐ Farming operations.
- ☒ Business use, unless Secured Party consents in writing to another use.

Except as otherwise permitted herein,
(7) The Collateral shall remain in Debtor's possession or control at all times at Debtor's risk of loss, and Secured Party may inspect it at any time. ~~Except for its temporary removal in connection with its ordinary use, Debtor shall not remove the Collateral from the above address without obtaining prior written consent from Secured Party.~~

(8) The Collateral will not be misused or abused, wasted or allowed to deteriorate, except for the ordinary wear and tear of its intended primary use, and will not be used in violation of any statute or ordinance.

(9) Debtor will have and maintain insurance at all times with respect to the Collateral against risks of fire, theft and such other risks as Secured Party may require, including standard extended coverage, and in the case of motor vehicles, including collision coverage. Such insurance policies shall contain such terms, be in a form, for a period and be written by companies satisfactory to Secured Party. Such insurance policies shall also contain a standard loss payable endorsement providing for payment of any loss to Secured Party. All policies of insurance shall provide for ten days written minimum cancellation notice to Secured Party. Debtor shall furnish Secured Party with certificates or other evidence satisfactory to Secured Party of compliance with the foregoing insurance provisions. Secured Party may act as attorney for Debtor in obtaining, adjusting, settling and cancelling such insurance and endorsing any drafts drawn by insurance of the Collateral. Secured Party may apply any proceeds of such insurance which may be received by it in payment on account of the obligations secured hereby, whether due or not.

(10) The Collateral will not be sold, transferred or disposed of by Debtor or be subjected to any unpaid charge, including rent and taxes, or to any subsequent interest of a third person created or suffered by Debtor voluntary or involuntary, unless Secured Party consents in advance in writing to such sale, transfer, disposition, charge, or subsequent interest.

(11) Debtor will sign and execute alone or with Secured Party any Financing Statement or other document or procure any document, and pay all costs, necessary to protect the security interest under this Security Agreement against the rights or interest of third persons.

(12) Debtor, will at his own expense, do, make, procure, execute and deliver all acts, things, writing and assurances as Secured Party may at any time request to protect, assure or enforce its interest, rights and remedies created by, provided in or emanating from this Security Agreement.

(13) Debtor will not lend, rent, lease or otherwise dispose of the Collateral or any interest therein except as authorized in this Security Agreement or in writing by Secured Party, and Debtor shall keep the Collateral, including the proceeds from any disposition thereof, free from unpaid charges, including taxes, and from liens, encumbrances, and security interests other than that of Secured Party.

(14) If Secured Party should at any time be of the opinion that the Collateral is not sufficient or has declined or may decline in value or should Secured Party deem payment of Debtor's obligations to Secured Party to be insecure, then Secured Party may call for additional Collateral satisfactory to Secured Party, and Debtor promises to furnish such additional security forthwith. The call for additional security may be oral or by telegram or by United States mail addressed to the address of Debtor shown at the beginning of this agreement.

Section VI. Events of Default.

Debtor shall be in default under this Security Agreement upon the happening of any of the following events or conditions (herein called an "Event of Default"):

(1) Debtor's failure to pay when due any indebtedness secured by this Security Agreement, either principal or interest.

(2) Default by Debtor in the punctual performance of any of the obligations, covenants, terms or provisions contained or referred to in this Security Agreement or in any note secured hereby.

(3) Any warranty, representation, or statement contained in this Security Agreement or made or furnished to Secured Party by or on behalf of Debtor in connection with this Security Agreement or to induce Secured Party to make a loan to Debtor proves to have been false in any respect when made or furnished.

(4) Loss, theft, substantial damage, destruction, sale or encumbrance of or to any of the Collateral, or the making of any levy, seizure or attachment thereof or thereon.

(5) Debtor's death, dissolution, termination of existence, insolvency or business failure; the appointment of a receiver of all or any part of the property of Debtor; an assignment for the benefit of creditors of Debtor; the calling of a meeting of creditors of Debtor; or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Debtor or any guarantor or surety for Debtor.

(6) Any statement of the financial condition of Debtor or of any guarantor, surety or endorser of any liability of Debtor to Secured Party submitted to Secured Party by Debtor or any such guarantor, surety or endorser proves to be false.

(7) The Collateral becomes, in the judgment of Secured Party, unsatisfactory or insufficient in character or value.

(8) Any guarantor, surety or endorser for Debtor defaults in any obligation or liability to Secured Party.

Section VII. Secured Party's Rights and Remedies.

A. Rights Exclusive of Default.

(1) This Security Agreement, Secured Party's rights hereunder or the indebtedness hereby secured may be assigned from time to time, and in any such case the Assignee shall be entitled to all of the rights, privileges and remedies granted in this Security Agreement to Secured Party, and Debtor will assert no claims or defenses he may have against Secured Party against the Assignee, except those granted in this Security Agreement.

(2) Secured Party may enter upon Debtor's premises at any reasonable time to inspect the Collateral and Debtor's books and records pertaining to the Collateral, and Debtor shall assist Secured Party in making any such inspection.

(3) Secured Party may execute, sign, endorse, transfer or deliver in the name of Debtor notes, checks, drafts or other instruments for the payment of money and receipts, certificates or origin, applications for certificates of title or any other documents necessary to evidence, perfect or realize upon the security interest and obligations created by this Security Agreement.

(4) At its option, Secured Party may discharge taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral and may pay for the maintenance and preservation of the Collateral. Debtor agrees to reimburse Secured Party on demand for any payment made, or expense incurred by Secured Party pursuant to the foregoing authorization, plus interest thereon at the rate of ten percent (10%) per annum.

B. Remedies in Event of Default.

(1) Upon the occurrence of an Event of Default, or if Secured Party deems payment of Debtor's obligations to Secured Party to be insecure, and at any time thereafter, Secured Party may declare all obligations secured hereby immediately due and payable and shall have the rights and remedies of a Secured Party under the Uniform Commercial Code of Texas, including without limitation thereto, the right to sell, lease or otherwise dispose of any or all of the Collateral and the right to take possession of the Collateral, and for that purpose Secured Party may peaceably enter upon any premises on which the Collateral or any part thereof may be situated and remove the same therefrom. Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party will send Debtor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or other disposition thereof is to be made. The requirement of sending reasonable notice shall be met if such notice is mailed, postage prepaid, to Debtor at the address designated at the beginning of this Security Agreement at least five days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling or the like shall include Secured Party's reasonable attorneys' fees and legal expenses, plus interest thereon at the rate of ten percent (10%) per annum. Debtor shall remain liable for any deficiency.

(2) Secured Party may remedy any default without waiving the default remedied and may waive any default without waiving any other prior or subsequent default.

(3) The remedies of Secured Party hereunder are cumulative, and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any of the other remedies of Secured Party.

Section VIII. Additional Agreements.

(1) The term "Debtor" as used in this agreement shall be construed as singular or plural to correspond with the number of persons executing this instrument as Debtor. The pronouns used herein are in the masculine gender but shall be construed as feminine or neuter as occasion may require. "Secured Party" and "Debtor" as used in this agreement include the heirs, executors or administrators, successors, representatives, receivers, trustees and assigns of those parties.

(2) If more than one person executes this agreement as Debtor, their obligations shall be joint and several.

(3) The section headings appearing in this agreement have been inserted for convenience only and shall be given no substantive meaning or significance whatever in construing the terms and provisions hereof. Terms used in this agreement which are defined in the Texas Uniform Commercial Code (Title I of the Texas Business and Commerce Code) are used with the meanings as therein defined.

(4) The law governing this secured transaction shall be the Texas Uniform Commercial Code (Title I of the Texas Business and Commerce Code) and other applicable laws of the State of Texas.

DATED this

8th

day of

January

1979

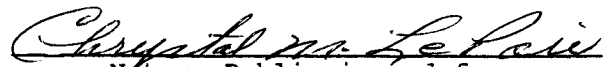
C. D. Grojean

Debtor

THE STATE OF TEXAS X
:
COUNTY OF BEXAR X

BEFORE ME, the undersigned authority, on this day personally appeared C. D. GROJEAN, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8th day of January, 1979.


Notary Public in and for
Bexar County, Texas
SHRYSTAL M. LE PORE
Notary Public, Bexar County, Te
My commission expires: 11-30-79